

REMARKS

Claims 1-10 are now pending in the application. Claims 1-10 are amended herein. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

ELECTION/RESTRICTION

Applicant acknowledges with thanks the Examiner's reconsideration of the species requirement and further acknowledges the finality of the same.

INFORMATION DISCLOSURE STATEMENT

Applicant acknowledges the Examiner's position with respect to the references cited by the applicant in the Information Disclosure Statement filed January 13, 2006. Applicant obtained copies of these references and submits them to the office herewith.

REJECTION UNDER 35 U.S.C. § 112 AND § 101

Claims 1-10 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter which Applicant regards as the invention. Claims 1-10 stand rejected under 35 U.S.C. § 101 because the claimed recitation of a use results in an improper definition of a process. Claims 1-10 are amended herein to clearly recite a method of using RSM as a treatment which comprises a step of administration. Accordingly, reconsideration and withdrawal of these rejections are respectfully requested.

REJECTION UNDER 35 U.S.C. § 102

Claims 1-7, 9 and 10 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Yan et al. (U.S. Pat. Pub. No. 2003/0152651). This rejection is respectfully traversed. Notwithstanding, claims 1-7, 9 and 10 are amended herein to clearly recite a method for treating anti-aspirin resistance in a subject. Since this rejection is based on the compositions disclosed by Yan '651 but the claims are directed to a method of treatment, reconsideration and withdrawal of this rejection are respectfully requested.

Claims 1-7, 9 and 10 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Yan et al. (U.S. Pat. Pub. No. 2005/0037094). This rejection is respectfully traversed. As stated above, claims 1-7, 9 and 10 are amended herein to recite a method for treating anti-aspirin resistance in a subject. As with the rejection based on Yan '651, this rejection is based on the compositions disclosed by Yan '094. The claims, however, are directed to a method of treatment. As such, reconsideration and withdrawal of this rejection are respectfully requested.

Claims 1-7, 9 and 10 stand provisionally rejected under 35 U.S.C. § 102(e) as being anticipated by copending Application No. 10/903,110. This rejection is respectfully traversed. In view of the amendments to claims 1-7, 9 and 10 which now clearly recite a method for treating anti-aspirin resistance in a subject and not a composition, reconsideration and withdrawal of this rejection are respectfully requested.

REJECTION UNDER 35 U.S.C. § 103

Claims 1 and 4-8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Yan et al. (U.S. Pat. Pub. No. 2003/0152651). This rejection is respectfully traversed. Since this rejection is based on the compositions disclosed by Yan '651 but Claims 1-7, 9 and 10 are amended herein to clearly recite a method for treating anti-aspirin resistance in a subject, reconsideration and withdrawal of this rejection are respectfully requested.

DOUBLE PATENTING

Claims 1-10 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 114, 116-120 and 122-138 of copending Application No. 10/210,548. Applicant elects to defer filing a terminal disclaimer until after the Examiner considers the amendments set forth herein.

Claims 1-10 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-9, and 11-24 of copending Application No. 10/903,110. Applicant elects to defer filing a terminal disclaimer until after the Examiner considers the amendments set forth herein.


CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office

Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: Feb. 21, 2008

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